

MAR 14 2006

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MINERVA ARACELI R. PENA
PALAFOX,

Petitioner,

v.

ALBERTO R. GONZALES, Attorney
General,

Respondent.

No. 04-71817

Agency No. A79-270-694

MEMORANDUM*

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted December 5, 2005**

Before: GOODWIN, W. FLETCHER, and FISHER, Circuit Judges.

Minerva Araceli R. Pena Palafox, a native and citizen of Mexico, petitions pro se for review of an order of the Board of Immigration Appeals (“BIA”) that affirmed the Immigration Judge’s denial of her applications for asylum and

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

** This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

withholding of removal, and that denied her relief under the Convention Against Torture (“CAT”).

We lack jurisdiction to review the BIA’s determination that Palafox is statutorily ineligible for asylum based on the one-year time bar. *See Ramadan v. Gonzales*, 427 F.3d 1218, 1221-22 (9th Cir. 2005).

We have jurisdiction pursuant to 8 U.S.C. § 1252 over Palafox’s withholding of removal claim. Reviewing for substantial evidence, *Kaur v. Ashcroft*, 379 F.3d 876, 884 (9th Cir. 2004), we deny the claim.

Because Palafox failed to demonstrate that she is more likely than not to be persecuted in Mexico, substantial evidence supports the BIA’s denial of withholding of removal. *See Ramadan*, 427 F.3d at 1223.

Palafox has waived her claim for protection under CAT by failing to raise any arguments in her opening brief challenging the BIA’s denial of this claim. *See Martinez-Serrano v. INS*, 94 F.3d 1256, 1259-60 (9th Cir. 1996).

The voluntary departure period was stayed, and that stay will expire upon issuance of the mandate. *See Desta v. Ashcroft*, 365 F.3d 741, 750 (9th Cir. 2004).

This disposition is without prejudice to petitioner writing to district counsel to request deferral of removal.

PETITION FOR REVIEW DISMISSED in part, and DENIED in part.